

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 2173 of 1983

For Approval and Signature:

Hon'ble MR.JUSTICE J.N.BHATT
and
Hon'ble MR.JUSTICE K.M.MEHTA

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
 2. To be referred to the Reporter or not? : YES
 3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
 4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
 5. Whether it is to be circulated to the Civil Judge? : NO

GSRTC

Versus

VASHRAM DAYA.SINCE DECEASED BY HIS/HER HEIRS & LEGAL REPR.

Appearance:

MR HARDIK C RAWAL for Petitioners
MRS MC THAKKER for Respondent No. 2
NOTICE SERVED for Respondent No. 3

CORAM : MR.JUSTICE J.N.BHATT
and
MR.JUSTICE K.M.MEHTA

Date of decision: 17/08/2000

ORAL JUDGEMENT (Per J.N.Bhatt, J.)

The short question which has arisen for our consideration and adjudication in this appeal under section 110-D of the Motor Vehicles Act, 1939 is, as to whether, the amount of compensation awarded by the Tribunal to the respondents in MACP Case No.78/81 to the extent of Rs.53,500/- is in any way, excessive or exorbitant, to which our evident and straight answer is, in the negative, in the light of the facts and circumstances emerging from the record and the submissions raised before us.

On 4.5.80 at about 4.30 p.m. between Shekhepet and Jamnagar on the Rajkot-Jamnagar highway, an accident took place between a motor truck No.GTF 1124 and ST Bus No.GRS 7278, in which the son of the respondents-original claimants, Vijay, who was driving the motor truck lost his life while other four applicants who were travelling in the truck had sustained various injuries of varying gravity. The parents of the deceased and the injured filed Claim Petitions before the Motor Accident Claims Tribunal, Jamnagar, which came to be decided by a common judgment on February 28, 1983. The parents of the deceased, original claimants, had filed MACP No.78/81 and claimed an amount of Rs.1,08,000/- for the unfortunate demise of their son aged 21 years and an amount of Rs.43,500/- came to be awarded by way of compensation for the, untimely, death of their earning son and an amount of Rs.10,000/- for damages to the truck which was, in charge of the deceased. The Tribunal held that the driver of the bus and the driver of the truck, both, were, compositely, negligent and the negligence came to be apportioned in the ratio of 50 per cent each. Being dissatisfied by the amount of award, the original respondent No.2 and 3 have filed this appeal, inter alia, contending that the amount awarded is exorbitant.

The factum of death of Vijay aged about 21 when he was in charge of driving of the truck is not in dispute. He was working as a driver and the Tribunal has assessed only the dependance loss sustained by the parents on account of premature and untimely demise of their unmarried son Vijay. Considering the facts and circumstances and the principles governing the amount of compensation in a case of death of a young unmarried son aged 21, the amount awarded by the Tribunal, by no stretch of imagination could be said to be, in any way, excessive or exorbitant. Therefore, the appeal filed by the original opponent Nos.2 & 3 deserves to be dismissed.

Our attention was drawn that cross-objections filed by

the respondents came to be dismissed by this Court earlier, for non-prosecution. It was, also, brought to our notice that out of five appeals, four appeals have also been decided earlier. Be that as it may, since we are of the clear opinion that the amount awarded under the impugned judgment and award of the Tribunal is just and reasonable, this appeal deserves to be dismissed. Accordingly, it is dismissed without any order as to costs.

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(vjn)